

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 06-BD067-SBD

3 **AARON AND MICHAELS, INC. AND**
4 **MICHAEL TRIPLETT, PRESIDENT**
9898 Bissonnet, Suite 575
Houston, Texas 77036

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

5 Respondents.
6

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
15 for which review is sought in accord with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
20 hearing in accordance with A.R.S. § 41-1092.05. Persons with disabilities may request reasonable
21 accommodations such as interpreters, alternative formats, or assistance with physical accessibility.
22 Requests for special accommodations must be made as early as possible to allow time to arrange the
23 accommodations. If accommodations are required, call the Office of Administrative Hearings at
24 (602) 542-9826.

25 If Respondents request a hearing, a request may also be made for an Informal Settlement
26 Conference by filing a written request no later than **twenty (20) days** before the scheduled hearing.

1 The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal
2 Settlement Conference is requested, a person with the authority to act on behalf of the Department
3 will be present (the "Department Representative"). Please note that in requesting an Informal
4 Settlement Conference, Respondents waive any right to object to the participation of the Department
5 Representative in the final administrative decision of this matter, if it is not settled. In addition, any
6 written or oral statement made by Respondents at such informal settlement conference, including
7 written documentation created or expressed solely for purposes of settlement negotiations, are
8 inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules regarding
9 informal settlement conferences.) Conversely, any written or oral statement made by Respondent[s]
10 outside an Informal Settlement Conference is not barred from being admitted by the Department in
11 any subsequent hearing.

12 If Respondents do not request a hearing to contest the allegations set forth below, or if after
13 hearing the Superintendent affirms the following Findings of Fact and Conclusions of Law, the
14 Superintendent may affirm his Order commanding Respondents to cease and desist their illegal
15 actions and to take affirmative action to correct the conditions created by the violative conduct
16 pursuant to A.R.S. § 6-137 and to pay a civil money penalty pursuant to A.R.S. § 6-132.

17 **FINDINGS OF FACT**

18 1. Respondent Aaron and Michaels, Inc. ("Aaron & Michaels") is a Texas corporation
19 that is not and was not at any time material herein, authorized to transact business in Arizona as a
20 collection agency, within the meaning of A.R.S. § 32-1001, *et. seq.* The nature of Aaron &
21 Michaels' business is that of soliciting claims for collection and collection of claims owed, due or
22 asserted to be owed or due within the meaning of A.R.S. § 32-1001(A)(2)(a).

23 2. Respondent Michael Triplett ("Mr. Triplett") is the President of Aaron & Michaels.
24 Mr. Triplett is not and was not at any time material herein authorized to transact business in Arizona
25 as a collection agency within the meaning of A.R.S. § 32-1001, *et. seq.*

26 ...

3. Aaron & Michaels and Mr. Triplett are not exempt from licensure as a collection agency under A.R.S. § 32-1004(A).

4. On May 4, 2005, Modern Life, Inc., a Tucson, Arizona materials handling company, filed a complaint with the Department stating that they referred three (3) past due accounts for collection to Aaron & Michaels. According to the complaint, Aaron & Michaels collected on one of the three accounts in January 2005, but Modern Lift had not been paid by Aaron & Michaels. Additionally, Modern Lift reported that Aaron & Michaels added its fees to the one account that was collected. Modern Lift never received any monies from Aaron & Michaels.

5. On June 9, 2005, the Department sent a letter to Aaron & Michaels stating that the Department had reason to believe that Aaron & Michaels was operating in Arizona without the benefit of a collection agency license, and gave Aaron & Michaels an opportunity to respond by June 19, 2005.

6. On June 27, 2005, the Department sent a second letter to Aaron & Michaels and requested an immediate response. To date, Aaron & Michaels has not responded to the Department. The Department's records do not reflect that Aaron & Michaels has requested an application for a collection agency license from the Department.

CONCLUSIONS OF LAW

1. Pursuant to Title 6 and Title 32, Chapter 9 of the Arizona Revised Statutes, the Superintendent is charged with the duty to regulate all persons engaged in the collection agency business and with the enforcement of statutes, rules and regulations relating to collections agencies.

2. The conduct of Aaron & Michaels and Mr. Triplett, as alleged above, constitutes the conduct of a collection agency in the State without having first applied for and obtained a collection agency license under Chapter 9 of Title 32, in violation of A.R.S. §§ 32-1021, 32-1021(A) and 32-1055(A).

3. Aaron & Michaels and Mr. Triplett do not meet any of the exemptions to the licensing requirements as a collection agency as set forth in A.R.S. §32-1004(A).

4. The violations set forth above constitute grounds for (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, and (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132.

ORDER

1. Aaron & Michaels and Mr. Triplett shall immediately stop all collection agency activity in Arizona until such time as Aaron & Michaels and Mr. Triplett have obtained a collection agency license from the Superintendent as prescribed by A.R.S. §32-1021.

2. Aaron & Michaels and Mr. Triplett shall immediately pay to the Department a civil money penalty in the amount of five thousand dollars (\$5,000.00): Aaron & Michaels and Mr. Triplett are jointly and severally liable for payment of the civil money penalty.

3. The provisions of this Order shall be binding upon Respondents, their employees, agents and other persons participating in the conduct of the affairs of Respondents.

4. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated or set aside.

SO ORDERED this 19th day of January, 2006.

Felecia A. Rotellini
Superintendent of Financial Institutions

By Bruce Tunell
Bruce Tunell
Deputy Superintendent of Financial Institutions

CONSENT TO ENTRY OF ORDER

1. Respondents acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware of their right to an administrative hearing in this matter, and have waived the same.

1 Richard A. Fergus, Manager
Richard Traveler, Senior Examiner
2 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

5 Michael Triplett, President
6 Aaron and Michaels, Inc.
9898 Bissonnet, Suite 575
7 Houston, TX 77036
Respondents

8 Vincent Wilson, Statutory Agent for
9 Aaron and Michaels, Inc.
9898 Bissonnet, Suite 575
10 Houston, TX 77036

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